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2 CONSUMER LAW CENTER, INC.  
3 12 South First Street, Suite 1014  
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8 Attorney for Plaintiff  
9 PATRICIA CLAIRE BANKSTON

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

PATRICIA CLAIRE BANKSTON,

Plaintiff,

v.

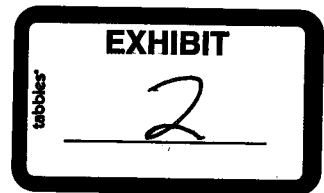
PATENAUDE & FELIX, A  
PROFESSIONAL CORPORATION, a  
California corporation, and RAYMOND  
ALCIDE PATENAUDE, individually and in  
his official capacity,

Defendants.

Case No. C07-03396-JW-PVT

**PLAINTIFF'S FIRST REQUEST FOR  
ADMISSIONS PROPOUNDED TO  
PATENAUDE & FELIX, A  
PROFESSIONAL CORPORATION**

TO: Patenaude & Felix, A.P.C.  
c/o Matthew B. Golding  
Patenaude & Felix, A.P.C.  
4545 Murphy Canyon Road, 3rd Floor  
San Diego, CA 92123



**COMES NOW** the Plaintiff and pursuant to Rule 36 of the Federal Rules of Civil Procedure hereby requests Defendant, PATENAUDE & FELIX, A PROFESSIONAL CORPORATION, make the following admissions under oath and within thirty (30) days from the service of this request, for the purpose of this action only, and subject to all objections as to admissibility which may be interposed at the trial, as to the genuineness of the following described documents and/or truth of the following facts, all as hereinafter set out.

Notice is also given that each matter of which an admission is requested is admitted unless within the time specified after service of the request or within such shorter or longer time as the

1 Court may allow, the party to whom the request is directed serves upon the party requesting the  
2 admission a written answer or objection addressed to the matter, signed by the party or by his/her  
3 attorney. If objection is made, the reasons therefore shall be stated. The answer shall specifically  
4 deny the matter, or set forth in detail the reasons why the answering party cannot truthfully admit  
5 or deny the matter. A denial shall fairly meet the substance of the requested admission, and when  
6 good faith requires that a party qualify his/her answer to deny only a part of the matter of which an  
7 admission is requested, that party shall specify so much of it as is true and qualify or deny the  
8 remainder. An answering party may not give lack of information or knowledge as a reason for  
9 failure to admit or deny unless s/he states that s/he has made reasonable inquiry and that the  
10 information known or readily obtainable by him/her is insufficient to enable him/her to admit or  
11 deny. A party who considers that a matter of which an admission has been requested presents a  
12 genuine issue for trial may not, on that ground alone, object to the request; s/he may, subject to the  
13 provision of Rule 37(c) of the Federal Rule of Civil Procedure, deny the matter or set forth reasons  
14 why he cannot admit or deny it.

15 Any admission made by a party is for the purpose of this action only and is not an admission  
16 by him/her for any other purpose and may not be used against him/her in any other proceeding.

17 Notice is also given that under the provisions of Rule 37(c)(2) of the Federal Rule of Civil  
18 Procedure if a party fails to admit the genuineness of any documents or the truth of any matter, as  
19 requested under Rule 36 of the Federal Rules of Civil Procedure, and if the party requesting the  
20 admission thereafter proves the genuineness of the document or the truth of the matter, that party  
21 may apply to the Court for an order requiring the other party to pay the reasonable expenses incurred  
22 in making such proof, including a reasonable attorney fee.

### 23 DEFINITIONS

24 As used herein, the terms listed below are defined as follows:

- 25 A. The term "Complaint" refers to Plaintiff's Complaint in the above styled action.  
26 B. The term "Answer" refers to Defendant's Answer in the above styled action.  
27 C. The terms "person" or "persons" shall mean all entities, including but not limited to  
28 individuals, groups or associations however formed.

1 D. The term "you" refers to Defendant, PATENAUE & FELIX, A PROFESSIONAL  
2 CORPORATION, including all past and current employees and agents of this Defendant,  
3 and any individual over which this Defendant exercises the power to control and direct.

4 E. The term "the debt" refers to the obligation allegedly owed to CAPITAL ONE BANK which  
5 you were attempting to collect from the Plaintiff.

6 **ADMISSIONS REQUESTED**

7 1. Plaintiff, PATRICIA CLAIRE BANKSTON, is a "consumer" within the meaning of 15  
8 U.S.C. § 1692a(3).

9 2. Defendant, PATENAUE & FELIX, A PROFESSIONAL CORPORATION, is a "debt  
10 collector" within the meaning of 15 U.S.C. § 1692a(6).

11 3. The principal business of Defendant, PATENAUE & FELIX, A PROFESSIONAL  
12 CORPORATION, is the collection of consumer debts owed or alleged to be owed to another.


13 4. Defendant, PATENAUE & FELIX, A PROFESSIONAL CORPORATION, regularly  
14 collects or attempts to collect consumer debts on behalf of its clients.

15 5. The financial obligation owed to CAPITAL ONE BANK by Plaintiff is a "debt" as that term  
16 is defined by 15 U.S.C. § 1692a(5).

17 6. The document Bates numbered 100001 - 100002 attached hereto is true and correct copy of  
18 the front and back of the original.

19 7. The document Bates numbered 100001 - 100002 attached hereto is genuine and admissible  
20 in trial without objection.

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22 CONSUMER LAW CENTER, INC.

23 By:   
24 Fred W. Schwinn (SBN 225575)  
25 12 South First Street, Suite 1014  
26 San Jose, California 95113-2403  
27 Telephone Number: (408) 294-6100  
28 Facsimile Number: (408) 294-6190  
Email: fred.schwinn@sjconsumerlaw.com  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned, Fred W. Schwinn, does hereby certify that he caused a true and correct copy of the above and foregoing document to be deposited in the United States mail, postage prepaid, addressed to the following:

Matthew B. Golding  
Patenaude & Felix, A.P.C.  
4545 Murphy Canyon Road, 3rd Floor  
San Diego, CA 92123  
Attorney for Defendants

on this, the 12<sup>th</sup> day of October, 2007.

  
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Fred W. Schwinn

# PATENAUDE & FELIX, A.P.C.

A PROFESSIONAL LAW CORPORATION

[X] PLEASE REPLY TO OFFICE INDICATED

[X] 4545 MURPHY CANYON RD, 3RD FL  
SAN DIEGO, CALIFORNIA 92123  
TEL (858) 244-7600 (800) 832-7675  
FAX (858) 836-0318

[ ] 213 EAST MAIN STREET  
CARNEGIE, PENNSYLVANIA 15106  
TEL (412) 429-7675 (866) 772-7675  
FAX (412) 429-7679

[ ] 1771 EAST FLAMINGO RD, STE. 112A  
LAS VEGAS, NEVADA 89119  
TEL (702) 952-2032 (800) 867-3092  
FAX (702) 992-6286

06/04/07

261965-A1200

PATRICIA BANKSTON  
6503 SAN IGNACIO AVE  
SAN JOSE, CA 951191733

RE: Our Client: CAPITAL ONE BANK  
Account Number: 5291152240935821  
Our File Number: 754.18491  
Account Balance: \$1,857.05

Dear PATRICIA BANKSTON:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client.

In the event that legal action is pursued and judgment is ultimately obtained against you, the judgment may include all court costs, prejudgment interest and attorney's fees in addition to the principal amount currently owed. If you wish to eliminate further collection action, please contact us at (858) 244-7600 or out of the 858 area code (800) 832-7675.

Unless you notify us within THIRTY (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office within THIRTY (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office within THIRTY (30) days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very Truly Yours,

Raymond A. Patenaude, ESQ.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

SEE REVERSE SIDE FOR IMPORTANT INFORMATION

100001

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

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